

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Stephen Thomas Kee, M.D.

**Physician's and Surgeon's
License No. A56389**

Respondent.

Case No. 800-2017-031223

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 24, 2021.

IT IS SO ORDERED: January 25, 2021.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 EDWARD KIM
Deputy Attorney General
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2017-031223

12 **STEPHEN THOMAS KEE, M.D.**
13 **Ronald Reagan UCLA Medical Center**
757 Westwood Plaza #2125
Los Angeles, CA 90095

OAH No. 2020060900

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Physician's and Surgeon's**
15 **Certificate No. A 56389,**

16 Respondent.

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Medical Board of California (Board) of the Department of
19 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
20 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
21 disposition of the Accusation.

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Board. He brought
24 this action solely in his official capacity and is represented in this matter by Xavier Becerra,
25 Attorney General of the State of California, by Edward Kim, Deputy Attorney General.

26 2. Respondent Stephen Thomas Kee, M.D. (Respondent) is represented in this
27 proceeding by attorney Benjamin J. Fenton, Esq., whose address is: 1990 S. Bundy Drive, Suite
28 777, Los Angeles, CA 90025.

3. On or about October 30, 1996, the Board issued Physician's and Surgeon's Certificate No. A 56389 to Stephen Thomas Kee, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-031223, and will expire on February 28, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-031223 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 11, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-031223 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-031223. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2017-031223.

10. **ACKNOWLEDGMENT.** Respondent acknowledges the Disciplinary Order below,

1 requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1,
2 serves to protect the public interest.

3 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
4 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
5 Disciplinary Order below.

6 **CONTINGENCY**

7 12. This stipulation shall be subject to approval by the Medical Board of California.
8 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
9 Board of California may communicate directly with the Board regarding this stipulation and
10 settlement, without notice to or participation by Respondent or his counsel. By signing the
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
14 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
15 action between the parties, and the Board shall not be disqualified from further action by having
16 considered this matter.

17 13. Respondent agrees that if he ever petitions for early termination or modification of
18 probation, or if an accusation and/or petition to revoke probation is filed against him before the
19 Board, all of the charges and allegations contained in Accusation No. 800-2017-031223 shall be
20 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
21 other licensing proceeding involving Respondent in the State of California.

22 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 15. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
27 enter the following Disciplinary Order:

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1 records and any inventories of controlled substances shall be available for immediate inspection
2 and copying on the premises by the Board or its designee at all times during business hours and
3 shall be retained for the entire term of probation.

4 3. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
5 completely from the personal use or possession of controlled substances as defined in the
6 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
7 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
8 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
9 illness or condition.

10 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
11 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
12 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
13 telephone number.

14 4. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
15 use of products or beverages containing alcohol.

16 5. EDUCATION COURSE. Within 60 calendar days of the effective date of this
17 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
18 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
19 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
20 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
21 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
22 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
23 completion of each course, the Board or its designee may administer an examination to test
24 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
25 hours of CME of which 40 hours were in satisfaction of this condition.

26 6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
27 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
28 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.

Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

7. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist with any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the

1 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
2 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
3 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
4 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
5 period of probation shall be extended until the Board determines that Respondent is mentally fit
6 to resume the practice of medicine without restrictions.

7 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

8 8. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
9 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
10 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
11 who shall consider any information provided by the Board or designee and any other information
12 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
13 designee. Respondent shall provide the evaluating physician with any information and
14 documentation that the evaluating physician may deem pertinent.

15 Following the evaluation, Respondent shall comply with all restrictions or conditions
16 recommended by the evaluating physician within 15 calendar days after being notified by the
17 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
18 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
19 Board or its designee for prior approval the name and qualifications of a California licensed
20 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
21 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
22 further notice from the Board or its designee.

23 The treating physician shall consider any information provided by the Board or its designee
24 or any other information the treating physician may deem pertinent prior to commencement of
25 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
26 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
27 Respondent shall provide the Board or its designee with any and all medical records pertaining to
28 treatment that the Board or its designee deems necessary.

1 If, prior to the completion of probation, Respondent is found to be physically incapable of
2 resuming the practice of medicine without restrictions, the Board shall retain continuing
3 jurisdiction over Respondent's license and the period of probation shall be extended until the
4 Board determines that Respondent is physically capable of resuming the practice of medicine
5 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

6 Respondent shall not engage in the practice of medicine until notified in writing by the
7 Board or its designee of its determination that Respondent is medically fit to practice safely.

8 9. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
9 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
10 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
11 licenses are valid and in good standing, and who are preferably American Board of Medical
12 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
13 relationship with Respondent, or other relationship that could reasonably be expected to
14 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
15 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
16 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

17 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
18 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
19 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
20 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
21 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
22 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
23 signed statement for approval by the Board or its designee.

24 Within 60 calendar days of the effective date of this Decision, and continuing throughout
25 probation, Respondent's practice monitor shall be monitored by the approved monitor.
26 Respondent shall make all records available for immediate inspection and copying on the
27 premises by the monitor at all times during business hours and shall retain the records for the
28 entire term of probation.

1 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
2 date of this Decision, Respondent shall receive a notification from the Board or its designee to
3 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
4 shall cease the practice of medicine until a monitor is approved to provide monitoring
5 responsibility.

6 The monitor(s) shall submit a quarterly written report to the Board or its designee which
7 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
8 are within the standards of practice of medicine, and whether Respondent is practicing medicine
9 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
10 that the monitor submits the quarterly written reports to the Board or its designee within 10
11 calendar days after the end of the preceding quarter.

12 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
13 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
14 name and qualifications of a replacement monitor who will be assuming that responsibility within
15 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
16 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
17 notification from the Board or its designee to cease the practice of medicine within three (3)
18 calendar days after being so notified. Respondent shall cease the practice of medicine until a
19 replacement monitor is approved and assumes monitoring responsibility.

20 In lieu of a monitor, Respondent may participate in a professional enhancement program
21 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
22 review, semi-annual practice assessment, and semi-annual review of professional growth and
23 education. Respondent shall participate in the professional enhancement program at Respondent's
24 expense during the term of probation.

25 10. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
26 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
27 where: 1) Respondent merely shares office space with another physician but is not affiliated for
28 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that

1 location.

2 If Respondent fails to establish a practice with another physician or secure employment in
3 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
4 Respondent shall receive a notification from the Board or its designee to cease the practice of
5 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
6 practice until an appropriate practice setting is established.

7 If, during the course of the probation, the Respondent's practice setting changes and the
8 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
9 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
10 If Respondent fails to establish a practice with another physician or secure employment in an
11 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
12 shall receive a notification from the Board or its designee to cease the practice of medicine within
13 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
14 appropriate practice setting is established.

15 11. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
16 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
17 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
18 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
19 board certified physician and surgeon. The examiner shall consider any information provided by
20 the Board or its designee and any other information he or she deems relevant, and shall furnish a
21 written evaluation report to the Board or its designee.

22 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
23 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
24 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
25 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
26 professional standards for conducting substance abuse clinical diagnostic evaluations. The
27 evaluator shall not have a current or former financial, personal, or business relationship with
28 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and

1 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
2 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
3 threat to himself or herself or others, and recommendations for substance abuse treatment,
4 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
5 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
6 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
7 hours of such a determination.

8 In formulating his or her opinion as to whether Respondent is safe to return to either part-
9 time or full-time practice and what restrictions or recommendations should be imposed, including
10 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
11 following factors: Respondent's license type; Respondent's history; Respondent's documented
12 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
13 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
14 history and current medical condition; the nature, duration and severity of Respondent's
15 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
16 the public.

17 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
18 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
19 requests additional information or time to complete the evaluation and report, an extension may
20 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
21 assigned the matter.

22 The Board shall review the clinical diagnostic evaluation report within five (5) business
23 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
24 practice and what restrictions or recommendations shall be imposed on Respondent based on the
25 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
26 she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
27 that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited
28 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of

1 Regulations.

2 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
3 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
4 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
5 designee, shall be borne by the licensee.

6 Respondent shall not engage in the practice of medicine until notified by the Board or its
7 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
8 not practicing medicine shall not be counted toward completion of the term of probation.

9 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
10 times per week while awaiting the notification from the Board if he or she is fit to practice
11 medicine safely.

12 Respondent shall comply with all restrictions or conditions recommended by the examiner
13 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
14 by the Board or its designee.

15 12. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
16 days of the effective date of this Decision, Respondent shall provide to the Board the names,
17 physical addresses, mailing addresses, and telephone numbers of any and all employers and
18 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
19 worksite monitor, and Respondent's employers and supervisors to communicate regarding
20 Respondent's work status, performance, and monitoring.

21 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
22 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
23 privileges.

24 13. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
25 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
26 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
27 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
28 make daily contact with the Board or its designee to determine whether biological fluid testing is

1 required. Respondent shall be tested on the date of the notification as directed by the Board or its
2 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
3 any time, including weekends and holidays. Except when testing on a specific date as ordered by
4 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
5 basis. The cost of biological fluid testing shall be borne by the Respondent.

6 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
7 During the second year of probation and for the duration of the probationary term, up to five (5)
8 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
9 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
10 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
11 of random tests to the first-year level of frequency for any reason.

12 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
13 approved in advance by the Board or its designee, that will conduct random, unannounced,
14 observed, biological fluid testing and meets all of the following standards:

- 15 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
16 Association or have completed the training required to serve as a collector for the United
17 States Department of Transportation.
- 18 (b) Its specimen collectors conform to the current United States Department of
19 Transportation Specimen Collection Guidelines.
- 20 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
21 by the United States Department of Transportation without regard to the type of test
22 administered.
- 23 (d) Its specimen collectors observe the collection of testing specimens.
- 24 (e) Its laboratories are certified and accredited by the United States Department of Health
25 and Human Services.
- 26 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
27 of receipt and all specimens collected shall be handled pursuant to chain of custody
28 procedures. The laboratory shall process and analyze the specimens and provide legally

1 defensible test results to the Board within seven (7) business days of receipt of the
2 specimen. The Board will be notified of non-negative results within one (1) business day
3 and will be notified of negative test results within seven (7) business days.

4 (g) Its testing locations possess all the materials, equipment, and technical expertise
5 necessary in order to test Respondent on any day of the week.

6 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
7 for the detection of alcohol and illegal and controlled substances.

8 (i) It maintains testing sites located throughout California.

9 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
10 computer database that allows the Respondent to check in daily for testing.

11 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
12 access to drug test results and compliance reporting information that is available 24 hours a
13 day.

14 (l) It employs or contracts with toxicologists that are licensed physicians and have
15 knowledge of substance abuse disorders and the appropriate medical training to interpret
16 and evaluate laboratory biological fluid test results, medical histories, and any other
17 information relevant to biomedical information.

18 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
19 while practicing, even if the Respondent holds a valid prescription for the substance.

20 Prior to changing testing locations for any reason, including during vacation or other travel,
21 alternative testing locations must be approved by the Board and meet the requirements above.

22 The contract shall require that the laboratory directly notify the Board or its designee of
23 non-negative results within one (1) business day and negative test results within seven (7)
24 business days of the results becoming available. Respondent shall maintain this laboratory or
25 service contract during the period of probation.

26 A certified copy of any laboratory test result may be received in evidence in any
27 proceedings between the Board and Respondent.

28 If a biological fluid test result indicates Respondent has used, consumed, ingested, or

1 administered to himself or herself a prohibited substance, the Board shall order Respondent to
2 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
3 medicine or providing medical services. The Board shall immediately notify all of Respondent's
4 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
5 provide medical services while the cease-practice order is in effect.

6 A biological fluid test will not be considered negative if a positive result is obtained while
7 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
8 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

9 After the issuance of a cease-practice order, the Board shall determine whether the positive
10 biological fluid test is in fact evidence of prohibited substance use by consulting with the
11 specimen collector and the laboratory, communicating with the licensee, his or her treating
12 physician(s), other health care provider, or group facilitator, as applicable.

13 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
14 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

15 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
16 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
17 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
18 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

19 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
20 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
21 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
22 any other terms or conditions the Board determines are necessary for public protection or to
23 enhance Respondent's rehabilitation.

24 14. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
25 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
26 prior approval, the name of a substance abuse support group which he or she shall attend for the
27 duration of probation. Respondent shall attend substance abuse support group meetings at least
28 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance

1 abuse support group meeting costs.

2 The facilitator of the substance abuse support group meeting shall have a minimum of three
3 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
4 or certified by the state or nationally certified organizations. The facilitator shall not have a
5 current or former financial, personal, or business relationship with Respondent within the last five
6 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
7 the same facilitator does not constitute a prohibited current or former financial, personal, or
8 business relationship.

9 The facilitator shall provide a signed document to the Board or its designee showing
10 Respondent's name, the group name, the date and location of the meeting, Respondent's
11 attendance, and Respondent's level of participation and progress. The facilitator shall report any
12 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
13 or its designee, within twenty-four (24) hours of the unexcused absence.

14 15. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
15 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
16 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
17 licensed physician and surgeon, other licensed health care professional if no physician and
18 surgeon is available, or, as approved by the Board or its designee, a person in a position of
19 authority who is capable of monitoring the Respondent at work.

20 The worksite monitor shall not have a current or former financial, personal, or familial
21 relationship with Respondent, or any other relationship that could reasonably be expected to
22 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
23 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
24 monitor, this requirement may be waived by the Board or its designee, however, under no
25 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

26 The worksite monitor shall have an active unrestricted license with no disciplinary action
27 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
28 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth

1 by the Board or its designee.

2 Respondent shall pay all worksite monitoring costs.

3 The worksite monitor shall have face-to-face contact with Respondent in the work
4 environment on as frequent a basis as determined by the Board or its designee, but not less than
5 once per week; interview other staff in the office regarding Respondent's behavior, if requested
6 by the Board or its designee; and review Respondent's work attendance.

7 The worksite monitor shall verbally report any suspected substance abuse to the Board and
8 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
9 substance abuse does not occur during the Board's normal business hours, the verbal report shall
10 be made to the Board or its designee within one (1) hour of the next business day. A written
11 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
12 any other information deemed important by the worksite monitor shall be submitted to the Board
13 or its designee within 48 hours of the occurrence.

14 The worksite monitor shall complete and submit a written report monthly or as directed by
15 the Board or its designee which shall include the following: (1) Respondent's name and
16 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
17 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
18 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
19 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
20 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
21 lead to suspected substance abuse by Respondent. Respondent shall complete any required
22 consent forms and execute agreements with the approved worksite monitor and the Board, or its
23 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

24 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
25 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
26 approval, the name and qualifications of a replacement monitor who will be assuming that
27 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
28 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the

1 monitor, Respondent shall receive a notification from the Board or its designee to cease the
2 practice of medicine within three (3) calendar days after being so notified. Respondent shall
3 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
4 responsibility.

5 16. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
6 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
7 probation.

8 A. If Respondent commits a major violation of probation as defined by section
9 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
10 one or more of the following actions:

11 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
12 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
13 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
14 order issued by the Board or its designee shall state that Respondent must test negative for at least
15 a month of continuous biological fluid testing before being allowed to resume practice. For
16 purposes of determining the length of time a Respondent must test negative while undergoing
17 continuous biological fluid testing following issuance of a cease-practice order, a month is
18 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
19 notified in writing by the Board or its designee that he or she may do so.

20 (2) Increase the frequency of biological fluid testing.

21 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
22 other action as determined by the Board or its designee.

23 B. If Respondent commits a minor violation of probation as defined by section
24 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
25 one or more of the following actions:

26 (1) Issue a cease-practice order;

27 (2) Order practice limitations;

28 (3) Order or increase supervision of Respondent;

- 1 (4) Order increased documentation;
- 2 (5) Issue a citation and fine, or a warning letter;
- 3 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
- 4 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
- 5 Regulations, at Respondent's expense;
- 6 (7) Take any other action as determined by the Board or its designee.

7 C. Nothing in this Decision shall be considered a limitation on the Board's authority

8 to revoke Respondent's probation if he or she has violated any term or condition of probation. If

9 Respondent violates probation in any respect, the Board, after giving Respondent notice and the

10 opportunity to be heard, may revoke probation and carry out the disciplinary order that was

11 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed

12 against Respondent during probation, the Board shall have continuing jurisdiction until the matter

13 is final, and the period of probation shall be extended until the matter is final.

14 17. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the

15 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

16 Chief Executive Officer at every hospital where privileges or membership are extended to

17 Respondent, at any other facility where Respondent engages in the practice of medicine,

18 including all physician and locum tenens registries or other similar agencies, and to the Chief

19 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

20 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15

21 calendar days.

22 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

23 18. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE

24 NURSES. During probation, Respondent is prohibited from supervising physician assistants and

25 advanced practice nurses.

26 19. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules

27 governing the practice of medicine in California and remain in full compliance with any court

28 ordered criminal probation, payments, and other orders.

1 20. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
2 under penalty of perjury on forms provided by the Board, stating whether there has been
3 compliance with all the conditions of probation.

4 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
5 of the preceding quarter.

6 21. GENERAL PROBATION REQUIREMENTS.

7 Compliance with Probation Unit

8 Respondent shall comply with the Board's probation unit.

9 Address Changes

10 Respondent shall, at all times, keep the Board informed of Respondent's business and
11 residence addresses, email address (if available), and telephone number. Changes of such
12 addresses shall be immediately communicated in writing to the Board or its designee. Under no
13 circumstances shall a post office box serve as an address of record, except as allowed by Business
14 and Professions Code section 2021, subdivision (b).

15 Place of Practice

16 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
17 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
18 facility.

19 License Renewal

20 Respondent shall maintain a current and renewed California physician's and surgeon's
21 license.

22 Travel or Residence Outside California

23 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
24 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
25 (30) calendar days.

26 In the event Respondent should leave the State of California to reside or to practice
27 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
28 departure and return.

1 22. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
2 available in person upon request for interviews either at Respondent's place of business or at the
3 probation unit office, with or without prior notice throughout the term of probation.

4 23. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
5 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
6 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
7 defined as any period of time Respondent is not practicing medicine as defined in Business and
8 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
9 patient care, clinical activity or teaching, or other activity as approved by the Board. If
10 Respondent resides in California and is considered to be in non-practice, Respondent shall
11 comply with all terms and conditions of probation. All time spent in an intensive training
12 program which has been approved by the Board or its designee shall not be considered non-
13 practice and does not relieve Respondent from complying with all the terms and conditions of
14 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
15 on probation with the medical licensing authority of that state or jurisdiction shall not be
16 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
17 period of non-practice.

18 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
19 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
20 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
21 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
22 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

23 Respondent's period of non-practice while on probation shall not exceed two (2) years.

24 Periods of non-practice will not apply to the reduction of the probationary term.

25 Periods of non-practice for a Respondent residing outside of California will relieve
26 Respondent of the responsibility to comply with the probationary terms and conditions with the
27 exception of this condition and the following terms and conditions of probation: Obey All Laws;
28 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or

1 Controlled Substances; and Biological Fluid Testing.

2 24. COMPLETION OF PROBATION. Respondent shall comply with all financial
3 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
4 completion of probation. Upon successful completion of probation, Respondent's certificate shall
5 be fully restored.

6 25. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
7 of probation is a violation of probation. If Respondent violates probation in any respect, the
8 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
9 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
10 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
11 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
12 the matter is final.

13 26. LICENSE SURRENDER. Following the effective date of this Decision, if
14 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
15 the terms and conditions of probation, Respondent may request to surrender his or her license.
16 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
17 determining whether or not to grant the request, or to take any other action deemed appropriate
18 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
19 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
20 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
21 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
22 application shall be treated as a petition for reinstatement of a revoked certificate.

23 27. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
24 with probation monitoring each and every year of probation, as designated by the Board, which
25 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
26 California and delivered to the Board or its designee no later than January 31 of each calendar
27 year.

28 28. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for

1 a new license or certification, or petition for reinstatement of a license, by any other health care
2 licensing action agency in the State of California, all of the charges and allegations contained in
3 Accusation No. 800-2017-031223 shall be deemed to be true, correct, and admitted by
4 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
5 restrict license.

6 **ACCEPTANCE**

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
8 discussed it with my attorney, Benjamin J. Fenton, Esq. I understand the stipulation and the
9 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
10 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
11 bound by the Decision and Order of the Medical Board of California.

12 DATED: _____

13 STEPHEN THOMAS KEE, M.D.
Respondent

14 I have read and fully discussed with Respondent Stephen Thomas Kee, M.D. the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
16 I approve its form and content.

17 DATED: _____

18 BENJAMIN J. FENTON, ESQ.
Attorney for Respondent

19 **ENDORSEMENT**

20 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
21 submitted for consideration by the Medical Board of California.

22 DATED: _____

Respectfully submitted,

23 XAVIER BECERRA
Attorney General of California
24 JUDITH T. ALVARADO
Supervising Deputy Attorney General

25
26 EDWARD KIM
Deputy Attorney General
Attorneys for Complainant

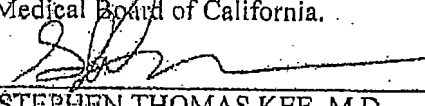
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1 a new license or certification, or petition for reinstatement of a license, by any other health care
2 licensing action agency in the State of California, all of the charges and allegations contained in
3 Accusation No. 800-2017-031223 shall be deemed to be true, correct, and admitted by
4 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
5 restrict license.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
8 discussed it with my attorney, Benjamin J. Fenton, Esq. I understand the stipulation and the
9 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
10 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
11 bound by the Decision and Order of the Medical Board of California.

12 DATED: 10/23/2020

13 
STEPHEN THOMAS KEE, M.D.
Respondent:

14 I have read and fully discussed with Respondent Stephen Thomas Kee, M.D. the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
16 I approve its form and content.

17 DATED: 10-28-20

18 
BENJAMIN J. FENTON, ESQ.
Attorney for Respondent


19 ENDORSEMENT

20 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
21 submitted for consideration by the Medical Board of California.

22 DATED: 10-28-20

Respectfully submitted,

23 XAVIER BECERRA
Attorney General of California
24 JUDITH T. ALVARADO
Supervising Deputy Attorney General

25 
EDWARD KIM
26 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-031223

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 EDWARD KIM
Deputy Attorney General
4 State Bar No. 195729
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6000
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2017-031223

12 **STEPHEN THOMAS KEE, M.D.**
13 **Ronald Reagan UCLA Medical Center**
757 Westwood Plaza, #2125
14 **Los Angeles, CA 90095**

A C C U S A T I O N

15 **Physician's and Surgeon's**
Certificate No. A 56389,

Respondent.

16
17 **PARTIES**

18 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
19 as the Interim Executive Director of the Medical Board of California, Department of Consumer
20 Affairs (Medical Board or Board).

21 2. On or about October 30, 1996, the Medical Board issued Physician's and Surgeon's
22 Certificate Number A 56389 to Stephen Thomas Kee, M.D. (Respondent). The Physician's and
23 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
24 herein and will expire on February 28, 2022, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

STATUTORY PROVISIONS

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1
2 (b) The district attorney, city attorney, or other prosecuting agency shall notify
3 the [Medical Board] of the pendency of an action against a licensee charging a felony
4 or misdemeanor immediately upon obtaining information that the defendant is a
5 licensee. The notice shall identify the licensee and describe the crimes charged and
6 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
7 which the action is pending that the defendant is a licensee, and the clerk shall record
8 prominently in the file that the defendant holds a license as a physician and surgeon.

9 (c) The clerk of the court in which a licensee is convicted of a crime shall,
10 within 48 hours after the conviction, transmit a certified copy of the record of
11 conviction to the board. The division may inquire into the circumstances surrounding
12 the commission of a crime in order to fix the degree of discipline or to determine if
13 the conviction is of an offense substantially related to the qualifications, functions, or
14 duties of a physician and surgeon.

15 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
16 deemed to be a conviction within the meaning of this section and Section 2236.1. The
17 record of conviction shall be conclusive evidence of the fact that the conviction
18 occurred.

19 7. Section 2236.1 of the Code states:

20 (a) A physician and surgeon's certificate shall be suspended automatically
21 during any time that the holder of the certificate is incarcerated after conviction of a
22 felony, regardless of whether the conviction has been appealed. The [Medical Board]
23 shall, immediately upon receipt of the certified copy of the record of conviction,
24 determine whether the certificate of the physician and surgeon has been automatically
25 suspended by virtue of his or her incarceration, and if so, the duration of that
26 suspension. The division shall notify the physician and surgeon of the license
27 suspension and of his or her right to elect to have the issue of penalty heard as
28 provided in this section.

(b) Upon receipt of the certified copy of the record of conviction, if after a
hearing it is determined therefrom that the felony of which the licensee was convicted
was substantially related to the qualifications, functions, or duties of a physician and
surgeon, the [Medical Board] shall suspend the license until the time for appeal has
elapsed, if no appeal has been taken, or until the judgment of conviction has been
affirmed on appeal or has otherwise become final, and until further order of the
division. The issue of substantial relationship shall be heard by an administrative law
judge from the Medical Quality Hearing Panel sitting alone or with a panel of the
division, in the discretion of the division.

(c) Notwithstanding subdivision (b), a conviction of any crime referred to in
Section 2237, or a conviction of Section 187, 261, 262, or 288 of the Penal Code,
shall be conclusively presumed to be substantially related to the qualifications,
functions, or duties of a physician and surgeon and no hearing shall be held on this
issue. Upon its own motion or for good cause shown, the division may decline to
impose or may set aside the suspension when it appears to be in the interest of justice
to do so, with due regard to maintaining the integrity of and confidence in the medical
profession.

(d) (1) Discipline may be ordered in accordance with Section 2227, or the
Division of Licensing may order the denial of the license when the time for appeal
has elapsed, the judgment of conviction has been affirmed on appeal, or an order

1 granting probation is made suspending the imposition of sentence, irrespective of a
2 subsequent order under Section 1203.4 of the Penal Code allowing the person to
withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the
verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

3 (2) The issue of penalty shall be heard by an administrative law judge from the
4 Medical Quality Hearing Panel sitting alone or with a panel of the division, in the
discretion of the division. The hearing shall not be had until the judgment of
5 conviction has become final or, irrespective of a subsequent order under Section
1203.4 of the Penal Code, an order granting probation has been made suspending the
6 imposition of sentence; except that a licensee may, at his or her option, elect to have
the issue of penalty decided before those time periods have elapsed. Where the
7 licensee so elects, the issue of penalty shall be heard in the manner described in this
section at the hearing to determine whether the conviction was substantially related to
8 the qualifications, functions, or duties of a physician and surgeon. If the conviction of
a licensee who has made this election is overturned on appeal, any discipline ordered
9 pursuant to this section shall automatically cease. Nothing in this subdivision shall
prohibit the division from pursuing disciplinary action based on any cause other than
10 the overturned conviction.

11 (e) The record of the proceedings resulting in the conviction, including a
transcript of the testimony therein, may be received in evidence.

12 (f) The other provisions of this article setting forth a procedure for the
suspension or revocation of a physician and surgeon's certificate shall not apply to
13 proceedings conducted pursuant to this section.

14 8. Section 2238 of the Code states:

15 A violation of any federal statute or federal regulation or any of the statutes or
regulations of this state regulating dangerous drugs or controlled substances
16 constitutes unprofessional conduct.

17 9. Section 2239 of the Code states:

18 (a) The use or prescribing for or administering to himself or herself, of any
controlled substance; or the use of any of the dangerous drugs specified in Section
19 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
or injurious to the licensee, or to any other person or to the public, or to the extent that
20 such use impairs the ability of the licensee to practice medicine safely or more than
one misdemeanor or any felony involving the use, consumption, or self-
21 administration of any of the substances referred to in this section, or any combination
thereof, constitutes unprofessional conduct. The record of the conviction is conclusive
22 evidence of such unprofessional conduct.

23 (b) A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this section. The
24 [Medical Board] may order discipline of the licensee in accordance with Section 2227
or the Division of Licensing may order the denial of the license when the time for
25 appeal has elapsed or the judgment of conviction has been affirmed on appeal or
when an order granting probation is made suspending imposition of sentence,
26 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
Code allowing such person to withdraw his or her plea of guilty and to enter a plea of
27 not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
complaint, information, or indictment.

10. Section 2529.1 of the Code states:

(a) The use of any controlled substance or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the registrant, or to any other person or to the public, or to the extent that this use impairs the ability of the registrant to practice safely or more than one misdemeanor or any felony conviction involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of this unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order discipline of the registrant in accordance with Section 2227 or may order the denial of the registration when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing this person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

11. Section 822 of the Code states:

If a licensing agency determines that its licensee's ability to practice his or her profession safely is impaired because the licensee is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licensee's certificate or license.

(b) Suspending the licensee's right to practice.

(c) Placing the licensee on probation.

(d) Taking such other action in relation to the licensee as the licensing agency in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

REGULATORY PROVISIONS

12. Section 1360 of Title 16 of the California Code of Regulation states:

"Substantial Relationship Criteria. For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a

manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.

FACTUAL ALLEGATIONS

Criminal Conviction

13. On or about February 21, 2015, Respondent attended an equestrian event in Thermal, California where his daughter performed well. At the event, Respondent drank beer to celebrate her performance. Respondent's ex-wife concerned about his drinking, suggested that he sleep in a recreation vehicle she had rented for the event. However, Respondent declined the offer, and proceeded to drive to Indio, California to stay at a hotel. While en route, Respondent's northwest-bound car rounded a curve along Enterprise Way, crossed the center line and collided with an oncoming car.

14. A law enforcement officer arrived on the scene of the collision at approximately 9:35 p.m., and observed that Respondent had red, watery eyes, slurred his speech and had the smell of alcohol on his breath. At the time, Respondent appeared confused when asked simple questions about his current location, his address and his eating and sleeping schedule, and offered no explanation as to how the accident occurred. The police officer also reported that during the investigation he walked away to talk to a nurse and overheard the Respondent making a call to someone stating, "I was fucked up and I crashed!"

15. Respondent caused several injuries due to his impaired driving. Respondent sustained a broken ankle, lacerations to his legs and hands, and the two occupants in the other car suffered multiple injuries. One suffered several broken ribs and pain to the neck and back (including a grade II liver laceration), and another (who was 11 years old) suffered a broken right leg femur and pain to her neck and back, requiring major surgery (she had to be air lifted from Desert Regional Hospital to Loma Linda Medical Center for emergency surgery to her leg.).

16. Respondent refused to submit to preliminary alcohol screening at the scene of the collision. Accordingly, Respondent's blood was drawn on or about February 22, 2015 at 12:53 a.m. at Riverside County Sheriff's Thermal Station. Respondent later stated that his blood alcohol concentration was 0.19, over twice the legal limit.

1 17. On or about December 1, 2016, in Riverside County Superior Court in case no.
2 INF1601841, entitled *People vs. Stephan Thomas Kee*, Respondent was charged with driving
3 under the influence of an alcoholic beverage, and during such driving neglected a duty imposed
4 by law in the driving of said vehicle, which act and neglect proximately caused bodily injury to a
5 person, in violation of Vehicle Code section 23153, subdivision (a), a felony, (Count 1); and with
6 driving while having 0.08 percent and more, by weight, of alcohol in his blood and 0.08 grams
7 and more of alcohol per 210 liters of his breath, and during such driving neglected a duty imposed
8 by law in the driving of said vehicle, which act and neglect proximately caused bodily injury to a
9 person, in violation of Vehicle Code section 23153, subdivision (b), a felony (Count 2); and with
10 an enhancement that alleged that Counts 1 and 2 were committed while Respondent had a blood
11 alcohol concentration of 0.15 and more, by weight, within the meaning of Vehicle Code section
12 23578.

13 18. On or about December 23, 2019, Respondent was convicted upon his plea of guilty to
14 Counts 1 and 2 (each a felony). He also admitted the enhancements under Vehicle Code section
15 23558 (Multiple Victims, Great Bodily Injury) and Penal Code section 12022.7, subdivision (a)
16 (Great Bodily Injury). He was sentenced to 339 days in jail and 60 months of formal probation
17 with terms and conditions, including an order to perform 100 hours of community service and pay
18 fines, penalties, assessments and restitution, and participate in a First Offender DUI program,
19 among other conditions. Respondent was also ordered not to drive with any amount of alcohol in
20 his system, to abstain from drinking, and to submit to any blood, breath, or urine tests for alcohol
21 as requested by probation or law enforcement if arrested for driving under the influence. The
22 record of the criminal proceeding is incorporated as if fully set forth herein.

23 **Psychiatric Evaluation**

24 19. On or about August 9, 2019, Respondent underwent a Comprehensive Psychiatric
25 Evaluation by Dr. L., board certified in Psychiatry and Neurology, which included an interview of
26 over three hours, and administration of psychological testing, and urine drug and alcohol testing.
27 Dr. L.'s psychiatric findings acknowledge Respondent's history of Alcohol Use Disorder.
28 According to Dr. L.'s expert assessment, Respondent requires continued alcohol treatment and

1 monitoring to practice medicine safely. Although Dr. L. found that Respondent could safely
2 practice medicine, he also found that Respondent required "treatment and monitoring," including
3 weekly doctor's support group involvement and ongoing monitoring.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Conviction of a Substantially Related Crime)**

6 20. Respondent is subject to disciplinary action under section 2236 of the Code, in that he
7 was convicted of an offense substantially related to the qualifications, functions, or duties of a
8 physician. The circumstances are as follows:

9 21. The allegations of paragraphs 13 through 19 are incorporated herein by reference.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 22. Respondent is subject to disciplinary action under section 2239 of the Code, in that he
13 consumed alcohol to the extent, or in such a manner as to be dangerous or injurious to himself, or
14 to any other person or to the public, and/or to an extent that such use impaired his ability to
15 practice medicine safely was dangerous or injurious to himself, to others, or to the public. The
16 circumstances are as follows:

17 23. The allegations of the First Cause for Discipline are incorporated herein by reference
18 as if fully set forth.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unable to Practice Safely Due to Mental Disorder)**

21 24. Respondent is subject to discipline pursuant to section 822 of the Code in that his
22 ability to practice medicine safely is impaired because he is mentally and/or physically ill in a
23 manner affecting his competency. The circumstances are as follows:

24 25. The allegations of the First and Second Causes for Discipline are incorporated herein
25 by reference as if fully set forth.

26 **FOURTH CAUSE FOR DISCIPLINE**

27 **(General Unprofessional Conduct)**

28 26. Respondent is subject to disciplinary action under section 2234 of the Code,

1 generally, in that he committed unprofessional conduct. The circumstances are as follows:

2 27. The allegations of the First, Second and Third Causes for Discipline are incorporated
3 herein by reference as if fully set forth.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Medical Board of California issue a decision:

7 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 56389,
8 issued to Stephen Thomas Kee, M.D.;

9 2. Revoking, suspending or denying approval of Stephen Thomas Kee, M.D.'s authority
10 to supervise physician assistants and advanced practice nurses;

11 3. Ordering Stephen Thomas Kee, M.D., if placed on probation, to pay the Board the
12 costs of probation monitoring; and

13 4. Taking such other and further action as deemed necessary and proper.

14
15 DATED: MAR 11 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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